

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

**AUG 19 2011**

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

JUDICIAL WATCH, INC.,  
425 Third Street, S.W., Suite 800  
Washington, DC 20024,

Plaintiff,

v.

UNITED STATES DEPARTMENT  
OF HOUSING AND  
URBAN DEVELOPMENT,  
451 7<sup>th</sup> St., S.W.  
Washington, DC 20410,

Defendant.

Civil Action No.

Case: 1:11-cv-01498  
Assigned To : Wilkins, Robert L.  
Assign. Date : 8/19/2011  
Description: FOIA/Privacy Act

**COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant United States Department of Housing and Urban Development (“HUD”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and

accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government and is headquartered at 451 7th St., S.W., Washington, D.C. 20410. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On June 8, 2011, Plaintiff submitted a FOIA request to Defendant, by certified mail, seeking access to the following:

- a) Any and all records concerning or relating to the approval of Affordable Housing Centers of America (AHCA) as a housing agency under Section 106(a)(2) of the Housing and Urban Development Act of 1968. This request includes, but is not limited to a copy of all HUD-9900 forms and supporting documentation submitted by, or on behalf of AHCA, as well as all records of communication regarding AHCA's approval;
- b) Any and all records of all application(s) for grants submitted by AHCA to HUD.

6. According to U.S. Postal Service records, Plaintiff's FOIA request was received by Defendant on June 13, 2011.

7. Defendant acknowledged receipt of Plaintiff's June 8, 2011 FOIA request by letter dated July 5, 2011, and assigned it tracking numbers 11-FI-HQ-01979 and FI-486197.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant's response to Plaintiff's June 8, 2011 FOIA request was due within twenty working days of June 13, 2011, or by July 12, 2011.

9. As of the date of this Complaint, Defendant has failed to produce any records responsive to Plaintiff's June 8, 2011 FOIA request or demonstrate that responsive records are exempt from production. Nor has it indicated whether or when any responsive records will be

produced. In fact, Defendant has failed to respond to Plaintiff's FOIA request in any substantive manner.

10. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its June 8, 2011 FOIA request. 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA, 5 U.S.C. § 552)**

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

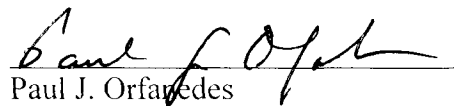
13. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's June 8, 2011 FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

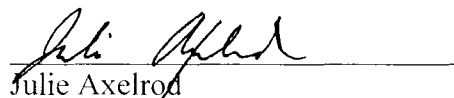
Dated: August 19, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes  
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